

THE HONORABLE BARBARA J. ROTHSTEIN

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSH KLEIN, a California Resident; and
CONVALENCE CAPITAL LLC, a Delaware
limited liability company,

Plaintiffs,

vs.

DOUGLAS JAE WOO KIM, a New York
resident,

Defendant.

Case No. 2:20-cv-01628-BJR

**DECLARATION OF DEAN D. PAIK
IN SUPPORT OF DEFENDANT'S
RESPONSE TO ATTORNEY'S FEES
REQUEST**

I, Dean D. Paik, declare that I am over eighteen years of age and am competent to testify, based on personal knowledge, as follows:

1. I am a Director with the law firm of Rogers Joseph O'Donnell PC and am counsel for Defendant Douglas Jae Woo Kim ("Kim" or "Defendant"). I have personal knowledge of the facts set forth herein and would be competent to testify thereto if called upon to do so.

2. Plaintiffs' FAC alleged Mr. Kim had entered into several loan agreements with Plaintiffs. (Dkt. 15 at ¶¶ 17, 22, 53 and 54). In his answer to the FAC, Mr. Kim admitted he entered into the loan agreements with Plaintiffs and received the loan proceeds. (Dkt. 17 at ¶¶ 53 and 54). Indeed, Mr. Kim never disputed that he entered into the loan agreements, received the

1 amounts loaned and did not pay. (Dkt. 75 at 6:14-17). His sole defense was that the loans were
2 usurious. (*Id.*). The issue of usuriousness rested solely on whether the purpose of the loans was
3 business as opposed to personal. (*Id.* at 6:17-25).

4 3. Plaintiffs conducted virtually no discovery on their breach of contract claim. They
5 failed to conduct any depositions and propounded a very limited number of discovery requests.
6 (Dkt. 75 at 8:21-9:17). Aside from filing their own declarations that the purpose of the loans was
7 business, Plaintiffs did little work to win their breach of contract claim. Certainly, nothing close
8 to justifying an attorneys' fees request of \$482,860.68.

9 4. While the issue disputed in the breach of contract claim was simple and
10 straightforward, issues raised in Plaintiffs' fraud claim were more complex and was the focus of
11 the parties' litigation. Plaintiffs, however, failed to prevail on their fraud claim. Indeed, after
12 having litigated their fraud claim for nearly two years, Plaintiffs abandoned it on the eve of trial.
13 (Dkt. 76).

14 5. Plaintiffs' FAC alleged that Plaintiffs were victims of the same scheme to defraud
15 as charged in a criminal complaint filed on July 9, 2020. (Dkt. 15 at ¶¶ 46-51). The FAC attached
16 as Exhibit K a copy of the complaint. (*Id.* at ¶ 50). Mr. Kim served deposition subpoenas on two
17 of the victims identified in the criminal complaint. Both deponents represented by WilmerHale
18 filed motions to quash the subpoenas, one in the Northern District of California and the other in
19 the Southern District of Florida. Plaintiffs did not participate in the motion to quash litigation.
20 The motion to quash litigation was quite contentious. Mr. Kim spent \$53,308.40 on the motions
21 to quash litigation.

22 6. Rogers Joseph O'Donnell PC billed Mr. Kim a total of \$250,741.50 for the
23 litigation with Plaintiffs (Mr. Kim was not billed for the approximately 6 hours to conduct the
24 deposition of Covalence Capital 30(b)(6) witness). Plaintiffs did not participate in the motion to
25 quash litigation. Subtracting the fees expended in the motion to quash litigation, Rogers Joseph
26 O'Donnell PC billed Mr. Kim a total of \$197,433.10 directly in litigation with Plaintiffs. Mr. Kim

1 employed prior counsel in connection with negotiations prior to this litigation and local counsel in
2 this litigation. Adding prior counsel's billing of \$7,725.00 and local counsel's \$92,064.00 in this
3 litigation, Mr. Kim attorneys' fees were \$297,222.00.

4 7. Mr. Kim attorneys' fees of \$297,222.00 were a little more than half Plaintiffs'
5 attorneys' fee request of \$482,860.68.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed this 23rd day of November, 2022 at San Francisco, California.

8
9 s/ Dean D. Paik
Dean D. Paik